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AMAZON.COM, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SUSAN NICHOLSON HOFHEINZ, an
Individual,

Plaintiff,

v.

A.V.E.L.A, INC., a Nevada
Corporation, et al.,

Defendants.

Case No. CV12-06546 SJO (RZx)

**AMAZON.COM'S ANSWER TO
PLAINTIFF'S COMPLAINT;**

DEMAND FOR JURY TRIAL

Judge: S. James Otero

Defendant Amazon.com Inc. answers the Complaint by Plaintiff Susan
Nicholson Hofheinz as follows:

1. Paragraph 1 states conclusions of law for which no response is required.
2. Answering paragraph 2, Amazon.com does not contest jurisdiction.
3. Answering paragraph 3, Amazon.com does not contest venue.
4. Answering paragraphs 4-13, Amazon.com is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of these paragraphs and therefore denies them.
5. Answering paragraph 14, Amazon.com admits that it is a Delaware corporation with its principal place of business in Washington, and that it sells

1 products and services over the Internet via its website www.amazon.com for
2 delivery to residents of California. Amazon.com otherwise denies the allegations in
3 paragraph 14.

4 6. Answering paragraphs 15-19, Amazon.com is without sufficient
5 information or knowledge to form a belief as to the truth or falsity of the allegations
6 of these paragraphs and therefore denies them.

7 7. Amazon.com denies the allegations in paragraphs 20 and 21.

8 8. Answering paragraphs 22-27 for itself only, Amazon.com denies the
9 allegations.

10 9. Answering paragraphs 28-29, Amazon.com is without sufficient
11 information or knowledge to form a belief as to the truth or falsity of the allegations
12 of this paragraph and therefore denies them.

13 10. No response is required to paragraph 30.

14 11. Answering paragraph 31, Amazon.com is without sufficient
15 information or knowledge to form a belief as to the truth or falsity of the allegations
16 of this paragraph and therefore denies them.

17 12. Answering paragraphs 32-38 for itself only, Amazon.com denies the
18 allegations.

19 13. No response is required to paragraph 39.

20 14. Answering paragraphs 40-44 for itself only, Amazon.com denies the
21 allegations.

22 15. No response is required to paragraph 45.

23 16. Answering paragraphs 46-51 for itself only, Amazon.com denies the
24 allegations.

25 17. No response is required to paragraph 52.

26 18. Answering paragraphs 53-55 for itself only, Amazon.com denies the
27 allegations.

28 19. No response is required to paragraph 56.

20. Answering paragraphs 57-59 for itself only, Amazon.com denies the allegations.

21. No response is required to paragraph 60.

22. Answering paragraphs 61-62 for itself only, Amazon.com denies the allegations.

PRAYER FOR RELIEF

Answering for Amazon.com only, Amazon.com denies that Plaintiff is entitled to any of the items set forth in its prayer for relief.

AFFIRMATIVE DEFENSES

As a further answer to Plaintiff's complaint, Amazon.com asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

Plaintiff's complaint, and each and every cause of action, fails to state facts as to Amazon.com sufficient to constitute a cause of action against it.

SECOND AFFIRMATIVE DEFENSE

(Insufficient originality)

Plaintiff's materials are not sufficiently original to be entitled to protection under the Copyright Act, and even if they are, the scope of protection is so narrow as to preclude any finding of infringement in this case.

THIRD AFFIRMATIVE DEFENSE

(No secondary meaning)

Plaintiff's materials are not sufficiently distinctive to have acquired secondary meaning in the minds of a significant part of the consuming public.

FOURTH AFFIRMATIVE DEFENSE

(Digital Millennium Copyright Act)

Amazon.com is shielded from copyright liability for the actions of third parties by the Digital Millennium Copyright Act.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Plaintiff's claims for damages are barred by its failure to mitigate.

RESERVED AFFIRMATIVE DEFENSES

The complaint does not describe the alleged actions of Amazon.com with sufficient particularity to permit it to ascertain what other defenses may exist. Amazon.com is frequently mentioned as part of "Defendants," but no particularized allegations are made against it. Amazon.com therefore reserves the right to assert all defenses that may pertain to the complaint as the facts of the case are discovered.

PRAYER FOR RELIEF:

Amazon.com requests entry of judgment in its favor and prays that the Court:

1. dismiss Plaintiff's complaint with prejudice;
2. award Amazon.com its costs;
3. award Amazon.com its reasonable attorney fees and expenses, as permitted by law, and;
4. grant Amazon.com other and further relief as the Court may deem just and proper.

Ropers Majeski Kohn & Bentley
A Professional Corporation
Los Angeles

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Dated: October 1, 2012

ROPERS, MAJESKI, KOHN &
BENTLEY

By: /s/ Allan E. Anderson
ALLAN E. ANDERSON
TIMOTHY L. SKELTON
KOLLIN J. ZIMMERMANN
Attorneys for Defendant
AMAZON.COM, INC.

DEMAND FOR JURY TRIAL

Amazon.com Inc. hereby requests a jury trial on all issues triable to a jury.

Dated: October 1, 2012

ROPERS, MAJESKI, KOHN &
BENTLEY

By: /s/ Allan E. Anderson

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